

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LYLE BATE,
STEPHEN R. CARTER
AND CARLOS A. NEVAREZ

Appeal No. 2006-0946
Application No. 09/450,867

MAILED

JUL 19 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before HAIRSTON, RUGGIERO, and MACDONALD, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-7, 10-18, and 23-28, which are all of the claims pending in this application. Claims 8, 9, and 19-22 have been canceled.

The claimed invention relates to a system and method for caching and accessing access rights to at least one resource in a distributed computing system. An agent, which is located on a distributed deputization point, parses a directory service which

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includes the access rights of a principal to a resource. The access rights are updated by the agent in an access control cache which is coupled to the deputization point and the principal. Upon receipt of a request from the principal for access rights stored in the access control cache, the access rights are retrieved and forwarded to the principal. One or more of the principal's access rights are delegated to a software entity which accesses the resource using the delegated access rights without requiring the intervention of the principal to authenticate the access requests by the software entity.

Claim 1 is illustrative of the invention and reads as follows:

1. A method for caching and accessing access rights to at least one resource in a distributed computing system, the method comprising:

accessing, by a software agent, a directory service, wherein the agent is located on a deputization point coupled to the directory service, and wherein the directory service comprises the access rights of a software principal to a resource;

updating, by the agent, the access rights in an access control list cache, wherein the access control list cache is coupled to the deputization point and to the principal;

receiving, at the access control list cache, a request from the principal for the access rights stored in the access control list cache;

retrieving, from the access control list cache, the access rights;

forwarding, to the principal, the access rights;

delegating one or more of the principal's access rights to at least one software entity; and

accessing the resource, by the software entity, using the delegated access rights without requiring intervention of the principal to authenticate access requests by the software entity, wherein tasks can be accomplished by the software entity without control by the principal.

The Examiner relies on the following prior art:

Chang et al. (Chang)	6,157,953	Dec. 05, 2000
		(filed Jul. 28, 1998)
O'Connor et al. (O'Connor)	6,178,510	Jan. 23, 2001
		(filed Sep. 04, 1997)

Claims 1 and 34 stand finally rejected under 35 U.S.C. § 112, second, paragraph, as failing to particularly point out and distinctly claim the invention. Claims 1-7, 10-18, and 23-38 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Connor in view of Chang.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner, the arguments in support

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of the rejections and the evidence of obviousness relied upon by the Examiner as support for the prior art rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that claims 1 and 34 particularly point out the invention in a manner which complies with 35 U.S.C. § 112, second paragraph. We are also of the conclusion that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-7, 10-18, and 23-38. Accordingly, we reverse.

With respect to the Examiner's 35 U.S.C. § 112, second paragraph, rejection of claims 1 and 34, we note that the general rule is that a claim must set out and circumscribe a particular area with a reasonable degree of precision and particularity when read in light of the disclosure as it would be by the artisan.

In re Moore, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed in

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light of the specification. Seattle Box Co. v. Industrial Crating & Packing, Inc., 731 F.2d 818, 826, 221 USPQ 568, 574 (Fed. Cir. 1984).

After reviewing the arguments of record, we are in agreement with Appellants' arguments in the Briefs that no ambiguity or lack of clarity exists in the language of claims 1 and 34. We agree with Appellants that, when considering the entire context of the language of claim 1, the ordinarily skilled artisan would recognize that the term "principal" is referring to the earlier recited "software principal." Further we agree with Appellants that there is no ambiguity in the language "principal is terminated" in claim 34 when read in light of the specification which describes the situation in which a principal is "no longer present on the system."

In view of the above discussion, it is our opinion that the skilled artisan, having considered the specification in its entirety, would have no difficulty ascertaining the scope of the invention recited in claims 1 and 34. Therefore, the rejection of claims 1 and 34 as being indefinite under the second paragraph of 35 U.S.C. § 112 is not sustained.

Turning to a consideration of the Examiner's obviousness rejection of claims 1-7, 10-18, and 23-38, all of the appealed claims, we point out that in rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of

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obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

Appellants' arguments in response to the Examiner's 35 U.S.C. § 103(a) rejection assert that the Examiner has failed to establish a prima facie case of obviousness since all of the claimed limitations are not taught or suggested by any of the applied prior art references. After careful review of the applied prior art references, in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs.

As indicated by the cases cited supra, the Examiner has at least two responsibilities in setting forth a rejection under 35 U.S.C. § 103. First, the Examiner must identify all the differences between the claimed invention and the teachings of the prior art. Second, the Examiner must explain why the identified differences would have been the result of an obvious modification of the prior art. In our view, the Examiner has not properly addressed his first responsibility so that it is impossible that he has successfully fulfilled his second responsibility.

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With respect to appealed independent claims 1, 11, and 15, the Examiner has never attempted to show how each of the claim limitations is suggested by the teachings of the applied prior art. In particular, the Examiner makes no attempt at addressing the specific language of the claims. For example, each of the appealed independent claims 1, 11, and 15 sets forth a specific combination involving the accessing of a directory service, which contains the access rights of a principal to a resource, by an agent located at a deputization point, the updating of the access rights in a access control list cache, and the delegation, through deputization, of the access rights of the principal to software entity. Appealed independent claims 23 and 29, although worded somewhat differently, nonetheless set forth a specific combination involving a request for authorization at a deputization point, the identification of valid accessible resources to a principal, the provision of deputization authority to a principal at specified levels, as well as the deputization of a deputy by a principal enabling deputy access to a resource without principal intervention.

While the Examiner (Answer, pages 6-14) makes reference to various portions of the applied O'Connor and Chang references in asserting that the claimed features are allegedly disclosed by

the prior art, the Examiner has made no attempt to explain how the features described in the references correspond to the claimed features, let alone how such features might interact in the specific manner set forth in the appealed claims.

We don't necessarily disagree with the Examiner's summation of the operation of the system of O'Connor which involves various software agents interspersed among various computers and functioning to determine and provide rights to various principals for accessing various system resources. We find no indication, however, from the Examiner as to how such summation would satisfy the language of the appealed claims.

Similarly, we agree with the Examiner that Chang provides an explicit teaching of updating the access rights of a principal to a resource. We find nothing in the disclosure of Chang, however, even if combined with O'Connor, which would overcome the deficiencies of O'Connor discussed supra.

As a final commentary, we note that, as discussed previously, the Examiner has the burden of initially presenting a prima facie case of obviousness. The Examiner cannot satisfy this burden by simply dismissing differences between the claimed invention and the teachings of the prior art as being obvious.

The Examiner must present us with an evidentiary record which supports the finding of obviousness. It does not matter how strong the Examiner's convictions are that the claimed invention would have been obvious, or whether we might have an intuitive belief that the claimed invention would have been obvious within the meaning of 35 U.S.C. § 103. Neither circumstance is a substitute for evidence lacking in the record before us.

It is well settled that "the Board cannot simply reach conclusions based on its own understanding or experience - or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings." In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). See also In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), in which the court required evidence for the determination of unpatentability by clarifying that the principles of "common knowledge" and "common sense" may only be applied to analysis of evidence, rather than be a substitute for evidence. The court further expanded their reasoning on this topic in In re Thrift, 298 F. 3d 1357, 1363, 63 USPQ2d 2002, 2008 (Fed. Cir. 2002).

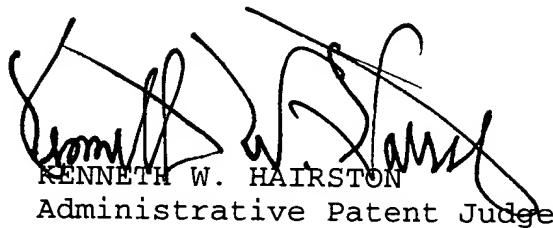
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In view of the above discussion, since the Examiner has not established a prima facie case of obviousness, the 35 U.S.C. § 103(a) rejection of independent claims 1, 11, 15, 23, and 29, as well as claims 2-7, 10, 12-14, 16-18, 24-28, and 30-38 dependent thereon, based on the combination of O'Connor and Chang, is not sustained.

In summary, we have not sustained the Examiner's 35 U.S.C. § 112, second paragraph, rejection of claims 1 and 34, nor the 35 U.S.C. § 103(a) rejection of claims 1-7, 10-18, and 23-38. Therefore, the Examiner's decision rejecting claims 1-7, 10-18, and 23-38 is reversed.

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REVERSED



KENNETH W. HAIRSTON
Administrative Patent Judge



JOSEPH F. RUGGIERO
Administrative Patent Judge



ALLEN R. MACDONALD
Administrative Patent Judge

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